IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)
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Scott Shepard et al.	) Group Art Unit: 2626
	)
Application No.: 10/610,684	) Examiner: Matthew H. Baker
	)
Filed: July 2, 2003	)
	)
For: SYSTEMS AND METHODS FOR	)
AIDING HUMAN TRANSLATION	)

REPLY BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is a Reply Brief submitted under 37 C.F.R. §41.41, in response to the Examiner's Answer dated December 31, 2009 ("Examiner's Answer").

The Grounds of Rejection in the Examiner's Answer appear to be a verbatim repeat of the grounds presented in the final office action dated February 3, 2009.

Appellants respectfully disagree with all of the arguments presented by the Examiner in the Response to Argument section in the Examiner's Answer appearing on pages 23-28 thereof for reasons previously given in their Appeal Brief filed on September 16, 2009, and those reasons are incorporated by reference herein. In addition, certain portions of the Examiner's Answer are expressly addressed, and further refuted, in this Reply Brief, and those portions are quoted herein and identified by Examiner's Answer page number.

ARGUMENT

> <u>Examiner' Answer, pg. 24</u>: "The human-machine partnership explained by the Applicant (Argument, p. 19) contains multiple suppositions about how a word completion suggestion from a machine would affect the actions of a translator, but there is no evidence to suggest that the machine suggestions must be included by the translator."

Appellants respectfully disagree because there is such evidence. The machine suggestions are either literally included by the human translator's acceptance of the suggestions or are otherwise included in the human translator's translation thought process to allow him/her to arrive at the optimum translated word by process of elimination of other possible words supplied by the machine-translator partner.

Appellants submit that a human language translation process, even when conducted only by a human translator without any input from machine or other person, is a mental process of sequentially proposing various word possibilities in the target language until the human translator decides on the optimum word. Similarly, the machine is proposing various word possibilities in the target language, in sequence, one after each keystroke, until the human translator decides on the optimum word.

The human translator in Foster is receiving, voluntarily, such machine input, which supplants, reinforces, contradicts or otherwise impacts a proposed word choice derived from the human translator's mental process. Accordingly, the machine's suggestions cannot be arbitrarily viewed as not being included in the translation process, even if a particular machine suggestion is not the finalized translated word. It is evident that even when a machine suggestion is rejected by the human translator, the rejected suggestion reduces the number of choices for that word and, therefore, the rejected suggestion *is* translation by process of elimination. Thus, when

partnered with the human translator, the machine suggestions *must* be included by the human translator in the translation process because those suggestions cannot be ignored, even if rejected. Rejected suggestions *must* be considered by the human translator in order to be rejected.

Therefore, for these reasons, there is evidence to suggest that the machine suggestions must be included by the translator.

In addition, other plain "evidence to suggest that the machine suggestions must be included by the translator" is Foster's representation that it estimates the machine shall supply the correct word 70% of the time. The Examiner's view, as understood, is that a human translator can receive input from Foster's machine and <u>always</u> reject <u>every</u> word suggested by the machine. This might be the result if the machine were wrong all the time and, therefore, totally inoperative, where Foster would be inoperative and have no value as a reference. But, that is not the teaching of the reference.

The reference teaches, quite oppositely, that the machine is estimated to be correct, in terms of human keystroke reduction, about 70% of the time. (Foster, pgs. 190-194, including table 4) In other words, for the human translator to <u>always</u> reject Foster's machine-suggestions in order to comply with the Examiner's proposition that "there is no evidence to suggest that the machine suggestions must be included by the translator" the human translator must *intentionally reject correct suggestions 70% of the time*, on average. Although this is what the Examiner is suggesting, this is <u>not</u> what the reference is teaching. The reference teaches that the machine-proposed translation *is* accepted when it is viewed as being correct.

Therefore, for these reasons, there is evidence to suggest that the machine suggestions

must be included by the translator.

As noted in MPEP 2141.02(VI), a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)

> Examiner' Answer, pg. 25: "Additionally, the percentages provided (Foster, page 192) by Foster are meant to provide evidence of machine aid as beneficial to the method, but *not* necessary. They are evidence of the benefit a feature of his method can provide, but not a teaching that leads away from translation by a human." (emphasis in original)

If these percentages are "evidence of the benefit" of a feature provided by Foster's method as the Examiner states, then, as discussed in the prior argument above, one cannot reasonably take the position that a human translator shall intentionally reject the proffered benefit. To the contrary, as taught by the underlying purpose in Foster, the human translator shall accept the benefit. Therefore, this is a teaching that does lead away from translation by a human because it leads, instead, in the direction of translation by a machine-human partnership. Whether or not the Foster machine-aid input is *necessary* is not relevant. Rather, the teaching is that a machine is a partner in the translation effort, whether or not that machine input is necessary. Appellants incorporate herein by reference the relevant argument made above.
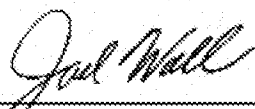
Therefore, for reasons given above, there is a teaching in Foster that leads away from translation by a human.

CONCLUSION

For the reasons given above, as well as those in the Appeal Brief filed on September 16, 2009 Appellants respectfully request that the Honorable Board reverse the final rejection of the pending claims.

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Date: **February 26, 2010**

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